

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

United States of America	§	
<i>ex rel.</i> ALEX DOE, Relator,	§	
	§	
	§	
The State of Texas	§	CIVIL ACTION NO. 2:21-CV-
<i>ex rel.</i> ALEX DOE, Relator,	§	00022-Z
	§	
	§	Date: October 19, 2022
	§	
The State of Louisiana	§	
<i>ex rel.</i> ALEX DOE, Relator,	§	
Plaintiffs,	§	
v.	§	
	§	
Planned Parenthood Federation of America, Inc.,	§	
Planned Parenthood Gulf Coast, Inc., Planned	§	
Parenthood of Greater Texas, Inc., Planned	§	
Parenthood South Texas, Inc., Planned Parenthood	§	
Cameron County, Inc., Planned Parenthood San	§	
Antonio, Inc.,	§	
	§	
Defendants.	§	
	§	
	§	
	§	

**AFFILIATE DEFENDANTS’ MOTION TO EXPEDITE BRIEFING OF AFFILIATE
DEFENDANTS’ SECOND AND RENEWED MOTION TO COMPEL THE STATE OF
TEXAS**

On October 20, 2022, Planned Parenthood Gulf Coast, Inc., Planned Parenthood of Greater Texas, Inc., Planned Parenthood South Texas, Inc., Planned Parenthood Cameron County, Inc., and Planned Parenthood San Antonio, Inc. (“Affiliate Defendants”) filed a Second and Renewed Motion to Compel the State of Texas (“the Motion”). ECF 228. On July 18, 2022, Affiliate Defendants moved this Court for an order compelling Texas to respond to interrogatories and produce responsive documents. ECF 127. Following the filing of that motion, Texas expressed a willingness to provide interrogatory responses and search custodial files, and represented to the Court that these efforts were “underway and ongoing” in its August 8, 2022 response. ECF No. 137 at 6. In light of Texas’s stated commitment to provide interrogatory responses and produce responsive documents, this Court issued an order on September 1, 2022 finding that Affiliate Defendants’ Motion to Compel was moot, but allowed for Affiliate Defendants to renew their motion if “Texas fails to amend its responses in a manner consistent with this Order.” ECF No. 161 at 5. It has now been over two months since Texas informed the Court its efforts were “underway and ongoing,” and Texas has only produced approximately 1,400 documents. Texas is also refusing to conduct any searches for a particular relevant custodian, relying upon overbroad assertions of the Texas Medicaid Investigative Privilege and common interest doctrine. Because the Parties are rapidly approaching the end of discovery, Affiliate Defendants respectfully request the Court order expedite briefing of this motion.¹

Discussion

As outlined in the Motion, Affiliate Defendants filed their initial Motion to Compel against Texas on July 18, 2022. It is now three months later, and despite Texas’s representation to this Court that efforts to provide complete written responses to interrogatories and to produce

¹Affiliate Defendants sought Texas’s position on their motion to expedite the briefing schedule, and Texas opposes the motion.

responsive documents were “underway and ongoing,” as of this filing, Affiliate Defendants have still not received Texas’s written responses or verification of their prior responses, nor has Texas indicated that their document production is imminent. Texas has also categorically refused—relying solely on blanket assertions of the Medicaid Investigative Privilege and common interest doctrine—to perform any searches of the custodial data of a former Texas Attorney General’s Office employee, David Maxwell, who was identified by Relator as a potential fact witness regarding Relator’s disclosures prior to the filing of this action, and who Affiliate Defendants have since determined has documents responsive to the First RFPs.

Texas’s ongoing delay has hampered Affiliate Defendants’ ability to identify relevant individuals to notice for depositions and to prepare for those depositions. Affiliate Defendants will also need to carefully compare Texas’s productions and its privilege logs to determine if Affiliate Defendants need to challenge specific assertions of privilege as overbroad or otherwise inappropriate.

Under the Local Rules, Relator’s response to this motion would be due on November 10, 2022, and Affiliate Defendants’ reply would be due on November 24, 2022, less than one week before the close of discovery. *See* N.D. Tex. L.R. 7.1(e). Many of the underlying issues raised by the Motion have already been fully briefed by both sides. ECF 127, 137, 149. This Court has previously ordered expedited briefing for discovery disputes (*see* ECF Nos. 159, 225), and a speedy resolution of Affiliate Defendants’ motion will prevent any further prejudice to Affiliate Defendants. Affiliate Defendants accordingly propose a schedule that would complete briefing on the motion to compel in two weeks.

CONCLUSION

For the foregoing reasons, Affiliate Defendants respectfully request that the Court expedite briefing. Affiliate Defendants propose that the Court order Texas to respond to the Motion to Compel by October 28, 2022, and Affiliate Defendants to file any reply by November 1, 2022.

Dated: October 20, 2022

Respectfully submitted,

ARNOLD & PORTER KAYE SCHOLER LLP

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2022, the foregoing document was electronically filed with the Clerk of Court using CM/ECF.

/s/ Tirzah S. Lollar

Tirzah S. Lollar